

REMARKS

This responds to the Office Action mailed on June 3, 2005. Claims 1-14 and 16-20 remain pending in this application, and claims 1, 7, 10 and 18 have been amended. In particular, claim 7 has been amended to depend from claim 2 rather than claim 1, as suggested by the Examiner. Independent claim 10 has been amended to incorporate the subject matter of dependent claim 15. As such, claim 10 is submitted to be in allowable form as per the Examiner's statement in Section 9 of the Office Action. Independent claims 1 and 18 have been amended to clarify the invention and are allowable for the reasons set forth below. As such, applicant respectfully requests the allowance of claims 1-14 and 16-20.

Claims 10, 12-13 and 16-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ikeda, U.S. Patent No. 4,248,246. Claims 10, 12-13 and 16-17 should now be in allowable form due to their dependence from claim 10 which now incorporates the allowable subject matter of dependent claim 15.

The method set forth in independent claim 18 has been amended to specifically state a "glue, sealant or caulk" is first being sealed within a container and then subsequently dispensed from that container. In addition, the step of making sealing contact between the open nozzle tip and the deformable sealant material has been revised to state that this sealing contact is made "by forcing a portion of the deformable sealant material into the open nozzle tip." Finally, two additional steps have been added to claim 18. In particular, a step of "removing

the cap from the open nozzle tip leaving a portion of the deformable sealant material within the open nozzle tip” and a step of “expelling the portion of the deformable sealant material from the open nozzle tip while dispensing the glue, sealant or caulk from the nozzle” have been added to fully clarify the invention over Ikeda, U.S. Patent No. 4,248,246. In this regard, the Ikeda patent relates to a medical sampling needle protector and in no way relates to a method of sealing an open nozzle tip of a container of “glue, sealant or caulk” and then dispensing that glue, sealant or caulk from the nozzle of the container using the specific steps recited in claim 18. Finally, one of ordinary skill in the art would not turn to the art of sampling needle protectors to solve problems within the art of storing and subsequently dispensing glues, sealants or caulks. For these reasons, the Ikeda reference is no longer applicable to claim 18 or its dependent claims.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda, U.S. Patent No. 4,248,246. Claim 11, which depends from claim 10, is allowable for at least the same reasons.

Claims 14 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda, U.S. Patent No. 4,248,246 in view of Mochida, U.S. Patent No. 3,961,731. Claim 14 depends from claim 10 and, therefore, is allowable for at least the same reasons as claim 10. Claim 19 depends from claim 18, discussed above, and is allowable for at least the same reasons as claim 18.

Claims 1-5, 8-9 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yan, U.S. Patent No, 6,213,349 in view of Ikeda, U.S. Patent No. 4,248,246. Yan relates to a cap structure of a glue container and, in this regard, is analogous and relevant to the problems addressed by the present invention. Ikeda, on the other hand, relates to medical sampling needle protectors and in no way relates to the problems addressed with cap structures of glue containers. The Examiner alleges that one of ordinary skill in the art of glue containers would have turned to the art of sampling needle protectors and, specifically, alleges that "it would have been obvious to one having ordinary skill in the art to have included the sealing cap of Ikeda in the glue dispenser of Yan in order to seal and protect the end of the needle as taught by Ikeda."

First, the needle 27 of Yan, referred to by the Examiner, has no provision whatsoever for a resealable cap. Instead, as set forth in column 4 of the Yan patent, it appears that when the needle becomes "unservicable" it is removed and replaced with a new dispensing tip 24. Thus, the only analogous art supplied by the Examiner in this rejection specifically fails to appreciate the problem solved by the present inventor. Moreover, the art of sampling needle protectors is not an art to which one of ordinary skill in the area of glue dispensers would turn. As set forth in the background of the Ikeda patent, Ikeda's needle is used to take a sample of blood or other bodily fluids and then seal the end of the needle to prevent the collected blood from leaking out and to conceal the end of the needle and

prevent operators from coming into contact with the collected blood or bodily fluids. The needle of Ikeda is meant to draw liquid into a syringe and not to dispense liquid from the syringe. Moreover, there is no indication whatsoever that if a cap as set forth by Ikeda were in fact used on the needle 27 of Yan, that an operational dispensing container would result. In other words, there is no indication that a user of the glue container 12 disclosed by Yan could develop enough pressure and force through the needle 27 with the viscous glue to expel any of the sealing material as disclosed by Yan during a dispensing operation of the glue container 12. Again, the Ikeda sampling needle protector is not meant to be part of a dispensing system for glue or any other material and, therefore, any allegation that Ikeda's sampling needle protector could be used in a glue dispensing container would be pure conjecture as opposed to being the result of any suggestion, motivation, or expressed objective of Ikeda.

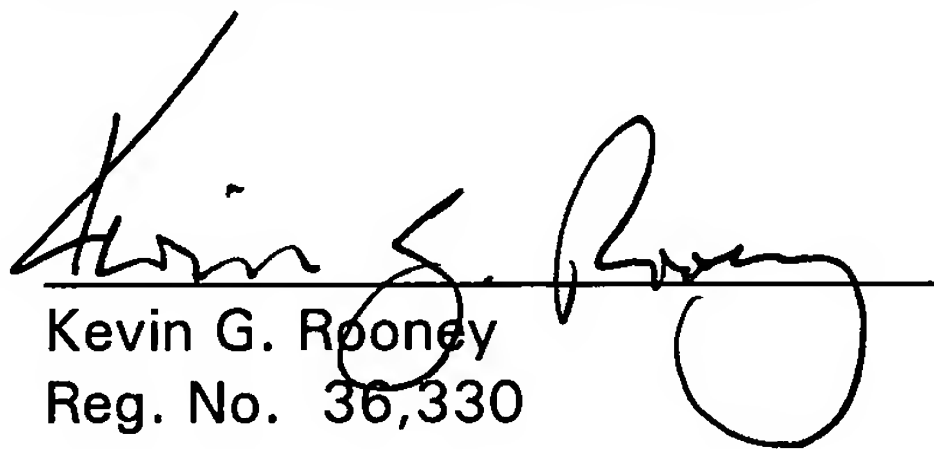
The standard of obviousness under 35 U.S.C. § 103(a) is not whether the prior art could be modified to result in the claimed invention, but whether the prior art would have lead one of ordinary skill in the art to the claimed invention. In this case, the Examiner has chosen two references that would not have been reasonably put together by one of ordinary skill in the art of dispensing glues, sealants or caulks. For these reasons, the rejections of claims 1-5, 8-9 and 20 should be withdrawn.

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Yan and Ikeda references as applied to claims 1 and 2, and further in view of Mochida, U.S. Patent No. 3,961,731. Claim 6 depends from claim 2 and is allowable for at least the same reasons expressed above.

Applicants do not believe that any fees are due in connection with this response. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.


Kevin G. Rooney
Reg. No. 36,330

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324